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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Thorsten Cassier
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AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This paper is responsive to the Office Action mailed 10/30/2008. Please amend the claims in the above-identified application as reflected in the following listing of claims.

AMENDMENT TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (currently amended) An agent for oxidative treatment ~~comprising~~ consisting of:

a) at least one oxidant;

b) at least one peroxide stabilizer[[,]];

c) at least one polymer thickener selected from the group[[s]] consisting of

(i) copolymers of acrylic acid,

(ii) polymers with propyleneoxy groups,

(iii) copolymers of vinylpyrrolidone,

(iv) hydroxyalkylstarch phosphates, and

(v) alkali metal magnesium silicates;

~~and~~

d) water or an aqueous solvent; and

e) optionally one or more of: a nonionic surface-active compound, an amphoteric surface-active compound, a cationic polymer, a dye, an alcohol, a dissolution promoter, a buffering substance, a perfume oil, a defoamer, a lanolin derivative, cholesterol, betain, a swelling agent, a penetration agent, a blonding agent, and a dilute organic or inorganic acid or base;

wherein the agent is transparent.

2. (previously presented) The agent as defined in claim 1, wherein the agent is in the form of a gel.

3. (canceled)

4. (currently amended) The agent as defined in ~~one of claims 1 to 3~~ claim 1, wherein the oxidant is selected from the group consisting of hydrogen peroxide, alkali metal bromates, alkaline earth metal bromates, ammonium bromate, alkali metal persulfates, alkaline earth metal persulfates, ammonium persulfate, alkali metal perborates, alkaline earth metal perborates, ammonium perborate, alkali metal percarbonates, alkaline earth metal percarbonates, calcium peroxide and sodium iodate.

5. (previously presented) The agent as defined in claim 1, wherein the agent contains a bromate as the oxidant and has a pH between 7 and 8.5.

6. (currently amended) The agent as defined in ~~one of Claims 1 to 4~~ claim 1, wherein the agent has a pH of 2 to 6.

7. (currently amended) The agent as defined in ~~one of Claims 1 to 6~~ claim 1, wherein the agent contains the oxidant in an amount from 0.1 to 25 weight percent.

8. (currently amended) The agent as defined in ~~one of Claims 1 to 7~~ claim 1, ~~characterized in that~~ wherein the peroxide stabilizer is selected from ~~among~~ the group consisting of dialkali metal hydrogen phosphates, p-acetamidophenol, hydroxyquinoline salts, salicylic acid and salts thereof, 1-hydroxyethane-1,1-diphosphonic acid, tetrasodium 1-hydroxyethane-1,1-diphosphonate, tetrasodium iminodisuccinate, ethylene-diaminetetraacetic acid tetrasodium salt, and N-(4-ethoxyphenyl)acetamide.

9. (currently amended) The agent as defined in ~~one of Claims 1 to 8~~ claim 1, wherein the agent contains the stabilizer in an amount from 0.01 to 2 weight percent.

10. (currently amended) The agent a s defined in ~~one of Claims 1 to 9~~ c laim 1, ~~characterized in that~~ wherein the stabilizer is a 2-component combination, the combination being selected from the ~~following~~ group consisting of:

EDITRONIC ACID and SALICYLIC ACID,
EDITRONIC ACID and DISODIUM PHOSPHATE,
TETRASODIUM EDITRONATE and SALICYLIC ACID,
TETRASODIUM EDITRONATE and SALICYLIC ACID, and
TETRASODIUM EDITRONATE and DISODIUM PHOSPHATE.

11. (previously presented) The agent as defined in claim 1, wherein the stabilizer is present in an amount of from 0.1 to 0.3 wt.% and the stabilizer is selected from the group consisting of TETRASODIUM EDITRONATE, SALICYLIC ACID and EDITRONIC ACID.

12. (previously presented) The agent as defined in claim 1, wherein the polymer thickener is selected from the group consisting of: ACRYLATES COPOLYMER; ACRYLATES/C10-30 ALKYL ACRYLATE CROSSPOLYMER; ACRYLATES/ACRYLAMIDE COPOLYMER; AMMONIUM ACRYLOYLDIMETHYLTAURATE/BEHENETH-25 METHACRYLATE COPOLYMER; AMMONIUM ACRYLOYLDIMETHYLTAURATE/VP COPOLYMER; CARBOMER; HYDROXYPROPYL STARCH PHOSPHATE; POLYQUATERNIUM-44; POLYQUATERNIUM-37; POLYQUATERNIUM-37, MINERAL OIL, SORBITAN OLEATE, PEG-1/PPG-6 TRIDECCETH 6, C10-12 ALKANE/CYCLOALKANE; POLYQUATERNIUM-37, SORBITANE OLEATE, PROPYLENE GLYCOL DICAPRYLATE/DICAPRATE, PPG-1 TRIDECETH-6, C10-12 ALKANE/CYCLOALKANE; and SODIUM MAGNESIUM SILICATE.

13. (currently amended) The agent as defined in ~~one of Claims 1 to 12~~ claim 1, wherein the agent contains the polymer thickener in an amount from 0.1 to 5.0 weight percent.

14. (currently amended) The agent as defined in ~~one of Claims 1 to 13~~ claim 1, wherein the agent contains water in an amount from 50 to 98 wt.%.

15. (currently amended) The agent as defined in ~~one of Claims 1 to 14~~ claim 1, wherein the agent contains an alcohol in an amount from 1 to 20 wt.%.

16. (previously presented) The agent as defined in Claim 15, wherein the alcohol is 1,2,3-propanetriol.

17. (currently amended) The agent as defined in ~~one of Claims 1 to 16~~ claim 1, wherein the agent contains at least one cationic polymer.

18. (previously presented) The agent as defined in claim 1, wherein the agent contains at least one amphoteric surface-active compound selected from the group consisting of the carboxyl derivatives of imidazole, N-alkylamidobetains, N-alkylsulfobetains, N-alkylaminopropionates, alkyldimethyl-carboxymethylammonium salts with 12 to 18 carbon atoms and fatty acid alkylamidobetains.

19. (previously presented) The agent as defined in claim 1, wherein the agent has a viscosity of 100 to 30,000 mPa s measured at 25 °C with a VT 550 Haake Rotational Viscometer at a shearing rate of 12.9 per second.

20. (previously presented) The agent as defined in claim 1, wherein the agent is in the form of a 2-component preparation and is prepared just before use by mixing the pure polymer thickener or a composition containing the polymer thickener (Component 1) with an aqueous hydrogen peroxide solution (Component 2).

REMARKS

Claims 1, 2, and 4-20 are pending in the application.

Claim 1 is amended to recite an agent in terms of "consisting of" language and to include optional ingredients including one or more of a nonionic surface-active compound, an amphoteric surface-active compound, a cationic polymer, a dye, an alcohol, a dissolution promoter, a buffering substance, a perfume oil, a defoamer, a lanolin derivative, cholesterol, betain, a swelling agent, a penetration agent, a blonding agent, and a dilute organic or inorganic acid or base.

Support for a nonionic surface-active compound is found on page 8, lines 24-29, of the specification. Support for an amphoteric surface-active compound is found on page 9, lines 1-9, of the specification. Support for a cationic polymer is found on page 7, lines 6-22, of the specification. Support for a dye, an alcohol, a dissolution promoter, a buffering substance, a perfume oil, a defoamer, a lanolin derivative, cholesterol, betain, a swelling agent, and a penetration agent is found on page 9, lines 11-20, of the specification. Support for a blonding agent is found on page 10, lines 4-7, in the specification. Support for a dilute organic or inorganic acid or base is found on page 11, lines 8-12, of the specification.

Claims 4, 6-10, 13-15, and 17 are amended to depend from claim 1. Claims 8 and 10 are amended to use language consistent with the recitation of a Markush group. Support for the amendments may be found in the claims as originally filed.

No new matter is added.

Claims Objections

Claims 4, 6-10, and 13-17 are objected to for depending from claim 3, which is canceled. Applicant thanks the Examiner for directing attention to this informality. In response to the objections, the objected claims are amended to depend from claim 1, with the exception of claim 16, which remains dependent on claim 15.

Claims Rejections 35 U.S.C. 102/103 and 35 U.S.C. 103

Claims 1, 2, 4, 7-14, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as unpatentable over Dias (US 6,540,791 B1). The Examiner's rejection has been carefully considered.

Claims 5 and 6 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dias (US 6,540,791 B1). Claims 15 and 16 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Dias in view of Legrand et al. (US 204/0034944 A1). The Examiner's rejections have been carefully considered.

The Examiner asserts that the compositions disclosed/taught by Dias inherently possess the property of transparency. Applicant respectfully disagrees.

In the arguments presented against the prior art rejections in the Office Action mailed 05/01/2008, Applicant pointed out that all of the Examples provided in Dias are definitely not transparent because they all contain long-chain fatty alcohol thickening agents, which form white, non-transparent compositions. Long-chain fatty alcohol thickening agents are also the preferred thickening agents, according to Dias. Consequently, at least the preferred and exemplified compositions taught by Dias are NOT transparent.

Despite the recitation that the agent is transparent, it appears that the Examiner interprets the "comprising" language recited in original claim 1 as allowing the inclusion of long-chain fatty acid thickeners. Therefore, claim 1 is amended to recite an agent in terms of "consisting of" language.

Claim 1, as amended, recites a transparent agent for oxidative treatment consisting of a defined list of thickening agents that does not include a long-chain fatty acid. Dias teaches a bleaching composition that may optionally contain a thickening agent, with long-chain fatty acids being preferred (column 15, lines 20-30). Dias does not teach or suggest that any of the possible combinations of ingredients listed therein results in a transparent composition.

Dias lists numerous bleaching compositions, oxidizing agents, buffering systems, stabilizers, surfactants, catalysts, thickeners, and conditioners, resulting in almost innumerable combinations of required and optional ingredients. Dias does not teach or suggest that any of the possible combinations result in a transparent composition or that a transparent composition is desirable.

One of ordinary skill in the art, at the time that the invention was made, would have no motivation to seek out transparent gels from the vast number of possible compositions taught by Dias because Dias does not teach or suggest that any of the reference compositions are transparent or even that transparency is a desirable property. To the contrary, all of the examples of bleaching compositions provided by Dias are definitely not transparent because they all contain long-chain fatty alcohol thickening agents, which form white, non-transparent compositions. Legrand does not teach or suggest a transparent gel.

If it is possible for the Examiner to identify a combination of ingredients that forms a transparent composition from among the vast number of possible combinations in Dias, it is only possible using the teachings of the present disclosure in hindsight.

It is the present specification and not Dias that discloses the unexpected result that a transparent gel may be achieved by a specific combination of ingredients as recited in present claim 1. Applicant reiterates that the transparent nature of the presently claimed agent is unexpected.

In summary, it would not have been obvious to one of ordinary skill in the art, at the time that the invention was made, to modify the bleaching composition of Dias to form a transparent agent for oxidative treatment as presently claimed because Dias prefers and exemplifies non-transparent compositions and does not teach or suggest the desirability of transparent bleaching compositions.

In view of the foregoing arguments and the amendment to the claims, Applicant respectfully requests that the rejections of claims 1, 2, and 4-20 under s5 U.S.C. 102(b)/103(a) and 35 U.S.C. 103(a) be withdrawn.

Conclusion

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,

Michael J. Striker

Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700